United Nations A/HRC/25/G/11

General Assembly

Distr.: General
7 March 2014

Original: English

Human Rights Council
Twenty-fifth session
Agenda item 4
Human rights situations that require the Council's attention

Note verbale dated 1 March 2014 from the Permanent Mission of Ukraine to the United Nations Office and other international organizations in Geneva addressed to the President of the Human Rights Council

The Permanent Mission of Ukraine to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the President of the Human Rights Council, and has the honour to transmit herewith the text of an official communication, dated 24 February 24 2014, by the acting President of Ukraine and Chairman of the Verkhovna Rada of Ukraine, Oleksandr Turchynov (see annex).

The Permanent Mission kindly requests that the communication attached* be circulated as a document of the twenty-fifth session of the Human Rights Council under agenda item 4 and posted on its website.

* Reproduced as received, in the language of submission only.

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Annex

[English only]

On February 21, 2014, the President of Ukraine V. Yanukovuch on the one side and the opposition leaders V. Klychko, O. Tyahnybok and A. Yatsenyuk on the other side signed an Agreement on the Settlement of Crisis in Ukraine (the Agreement). Negotiations on the Agreement were held with the participation of the EU representatives including the Minister for Foreign Affairs of Poland R. Sikorski, the Minister for Foreign Affairs of Germany F. Steinmeier and the Minister for Foreign Affairs of France L. Fabius, as well as V. Lukin, a Special Envoy of the President of the Russian Federation.

At 10 a.m. on February 21, 2014, the text of the Agreement was approved by the parties and signed by V. Yanukovuch, V. Klychko, O. Tyahnybok, A. Yatsenyuk, R. Sikorski, F. Steinmeier and L. Fabius.

V.Lukin, a Representative of the Russian Federation, did not sign the Agreement, thereby not recognizing it.

According to the Agreement, within 48 hours after the signing of the Agreement a special law that would restore the Ukrainian Constitution of 2004 had to be adopted by the Verkhovna Rada, signed by the President and made public.

The parties also agreed on the early presidential elections to be held immediately after the adoption of the new Constitution of Ukraine, but no later than in December, 2014. The parties agreed to refrain from the use of violence.

In order to implement the Agreement, the Verkhovna Rada adopted by a constitutional majority (386 votes) the Law of Ukraine "On Restoring Specific Provisions of the Constitution of Ukraine" that provided for the restoration of the Constitution of Ukraine of 2004.

Meanwhile, on February 22, 2014, V. Yanukovych publicly stated in a video-interview that he renounced the Agreement and had no intent to sign the law restoring the Constitution of 2004 adopted by the parliament, left the city of Kyiv for unknown destination and, in fact, removed himself from his constitutional authority.

Therefore, on February 22, 2014, the Verkhovna Rada of Ukraine, which was the only legitimate authority in Ukraine, providing the absence of a legitimate Government of Ukraine (which resigned on January 28, 2014) and President's self-removal from exercising his functions, adopted Decree № 750-VII "On the Text of the Constitution of Ukraine as of June 28, 1996, with amendments, adopted by the laws of Ukraine № 2222-IV of December 8, 2004, № 2952-VI of February 1, 2011, and № 586-VII of September 19, 2013».

By this Decree, the Parliament of Ukraine, based on its exclusive authority to amend the Constitution of Ukraine, considering the Conclusions of the European Commission for Democracy through Law entitled "On the Constitutional Situation in Ukraine" of December 20, 2010, aiming at restoring the legitimacy of the constitutional order in Ukraine, declared that the provisions of the Constitution of Ukraine adopted at the 5th session of the Verkhovna Rada of Ukraine on June 28, 1996, with amendments adopted by the laws of Ukraine № 2222-IV of December 8, 2004, № 2952-VI of February 1, 2011, and № 586-VII of September 19, 2013 are in force.

This decree will be in effect until the Law of Ukraine "On Restoring the Specific Provisions of the Constitution of Ukraine" № 742 adopted on February 21, 2014, enters into force.

Moreover, considering the actual renunciation of the Agreement by V. Yanukovych, the Verkhovna Rada of Ukraine on February 22, 2014, adopted the following decrees: "On the Removal of the President of Ukraine from his Constitutional Authority and Early Elections of the President of Ukraine" and "On Assuming Political Responsibility for the Situation in Ukraine".

By these decisions the parliament of Ukraine recognized that the President of Ukraine V. Yanukovych removed himself from his constitutional duties through unconstitutional means and did not perform his duties, and set the early elections of the President of Ukraine on May 25, 2014.

Therefore, according to Article 112 of the Constitution of Ukraine of 2004 (in case of early termination of powers of the President of Ukraine the functions of the President of Ukraine shall be carried out by the Speaker of the Parliament until a new President is elected and inaugurated), the only legitimate supreme authority in Ukraine is the Verkhovna Rada of Ukraine.

All decisions adopted by the Parliament are aimed at the soonest creation of the constitutional government authorities in Ukraine, the expression of the sovereign will of the Ukrainian people and the restoration of the civil peace in Ukraine.

Thus, the opposition and the Members of Parliament of the former ruling party majority in the Parliament secured realization of the provisions of the Agreement since V. Yanukovych removed himself from the implementation of the peaceful arrangements and his official duties.

In this regard, the stance of the Russian side on failure of the opposition to implement the Agreement is groundless and without merit, in as much as the Agreement was not fulfilled by the ex-President V.Yanukovych himself, which was proved both by his actions – in accordance with the Agreement he was to sign the law adopted by the Parliament restoring the Constitution of Ukraine of 2004 by 10 a.m. on February 23, 2014, – and by his public statements.

Moreover, such a stance by the Russian side is surprising given the fact that Russian Envoy V. Lukin, in fact, refused to recognize the Agreement at the time of its signing.